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July 28, 2005

**VIA FACSIMILE**

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Discovery Issues  
Civil Action No. 1:04-cv-11923 (DPW)

Dear Josh and Robert:

This letter confirms our understanding of the results of the discovery conference we held on July 13, 14, 18, and 26, 2005. If our understanding does not meet with your understanding, please let us know.

Request Nos. 42 and 44-46 (Defendants will produce responsive documents as to Harvard Connection and thefacebook.com), 85 - 89, 90 - 95, 98 - 101, 102 - 104 (in part), 105, 107 - 109, 110, 113, and 169: Defendants have agreed to produce responsive documents, if they exist, preserving their objections. Please amend your responses accordingly.

Request Nos. 60, 83, 124 - 128, 140, 141, 166: Defendants represent that all responsive documents have been produced. Please amend your responses accordingly.

Request Nos. 30 (as to the facemash code), 35 (as to the facemash online journal), 36 (as to the coursemash code), 38, 43 (as to Harvard Connection, thefacebook.com, and facemash), 48, 49, 52 - 54, 64, 65, 66 and 68 (in uncorrupted form), and 106: Defendants represent that such documents do not exist. Please amend your responses accordingly.

Joshua H. Walker, Esq.  
Robert B. Hawk, Esq.  
Page 2

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Request Nos. 70 - 71, 96, and 102 -104 (in part): Defendants are leaning toward producing responsive documents. Please let us know your decision as quickly as possible and amend your responses accordingly.

Request Nos. 30 (as to the facemash code), 35 (as to the facemash online journal), 36 (as to the coursemash code), 48, 49, 52 - 54, 64 - 66, 68, 116 - 123: Defendants will not produce mirror images of hard drives or other electronic memory devices.

Request Nos. 18 - 21, 23 - 29, 63, 67, 129 - 139, 167 - 168: Defendants will not produce responsive documents created on or after May 21, 2004.

Request Nos. 34, 42 and 44 - 46 (as to facemash or any other disciplinary actions), 43 (as to any other disciplinary actions), 69, 84, 111, 142, 155, 157, 161, 163, 165<sup>1</sup>: Defendants are standing on their objections and will not be producing responsive documents.

Plaintiff's production requests as to which Defendants' made privacy and confidentiality objections and did not agree to produce documents (Privacy: Request Nos. 38, 42, 44 - 46, 96, 119 - 122; Confidentiality: Request Nos. 34, 69 -71, 98 - 99, 106 - 107, 111, 113, 123) are subsumed in the preceding categories. In the event that the production of documents covered by such requests is not resolved in other ways, Plaintiff reserves the right to challenge such objections (as well as any other objections).

We have reconsidered our position, as expressed during the first three days of the discovery conference, and intend to produce the following:

1. connectu.com code (including database definitions) from the time of launch;
2. post-launch versions of the connectu.com code (including database definitions);
3. drafts of the ConnectU L.L.C. operating agreement.

However, as I said during our July 26 discovery conference, we may not be able to produce item nos. 1 and 2 before the August 9 deposition of ConnectU. In any event, we will provide a 30(b)(6) witness to testify about such code, subject to the deposition

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<sup>1</sup> We did not discuss your objections to our requests directed to the counterclaims during the discovery conference. If we are incorrect that Defendants are standing on their objections, please let us know.

Joshua H. Walker, Esq.  
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Page 3

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time limit set forth in Fed. R. Civ. P. 30(d)(2), and the deposition limit set forth in the Rule 26(f) report, at a mutually convenient time after such code is produced.

Sincerely,

FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNEN, L.L.P.

By:   
John F. Hornick

JFH/sjb

cc: Daniel K. Hampton, Esq. (via facsimile)